

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ITHACA VENTURES k.s. and ITHACA
DEVELOPMENT, LLC,

Plaintiffs,

v.

NINTENDO OF AMERICA INC. and
NINTENDO CO., LTD.,

Defendants.

C.A. No. 13-824-GMS

**DECLARATION OF PETER LUTZ IN SUPPORT OF ITHACA VENTURES K.S.'s AND
ITHACA DEVELOPMENT, LLC'S OPPOSITION TO MOTION TO TRANSFER
VENUE TO THE WESTERN DISTRICT OF WASHINGTON**

I, Peter Lutz, declare as follows:

1. I am the managing director of Ithaca Ventures, k.s., one of the plaintiffs in the above-captioned action. I am also one of the two inventors of the patent-in-suit. I have personal knowledge of the facts set forth herein and if called as a witness, I could and would competently testify to the matters stated herein.

2. I live and work in Munich, Germany as does Mr. Klein. Ithaca Ventures, k.s. has generated less than €15, 000 in revenue per year, since it was established.

3. On May 18, 1999 I sent an email to Sandy Hatcher at Nintendo of America Inc., a true and correct copy of which is attached hereto as Exhibit A.

4. On May 20, 1999 I received an email from Ms. Hatcher responding to my letter, a true and correct copy of which is attached hereto as Exhibit B.

5. On May 24, 1999 I called Ms. Hatcher over the phone in order to thank her for her assistance with the matter discussed in the above referenced emails.

6. Other than these two emails (Exhibits A and B) and subsequent phone call, I did not have any other contact with Ms. Hatcher (i.e., by phone, in writing, or in person) and neither did my co-inventor, Maximilian Klein, or anyone else on behalf of Ithaca Ventures, k.s.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed September 30, 2013, at Munich.



Peter Lutz

EXHIBIT "A"

Kim Zeldin

From: Peter Lutz <IMCEAMS-Windows_plutz_plutz@mimecast.com>
Sent: Tuesday, May 18, 1999 12:07 PM
To: 'CS - NINTENDO - Mrs. Hatcher'
Subject: CYBERSURFER
Attachments: cybersurfer.pdf; PCT.pdf

Dear Mrs. Hatcher,

I am writing you in regards to my recent telephone conversation with Leef Thomson. As previously discussed with him, we have developed a new input device called CYBERSURFER. Attached please find an outline of the invention.

By preference, we are striving for an exclusive licensing agreement for CYBERSURFER. In addition we are offering our know-how to accompany the further development to come. However, we would also be available for another kind of agreement.

After examining the enclosed, please feel free to forward the documents to other appropriate colleagues. If interested, we will put at your disposal the patent application in English.

Thank you for your interest in CYBERSUFER!

Sincerely,

Peter Lutz

Attachment:

Outline (Adobe Acrobat Reader 3.0)

PCT Publication – page 1 (Adobe Acrobat Reader 3.0)

CYBERSURFER

CYBERSURFER

OUTLINE

for Investors and Licensees

Peter Lutz
Maximilian Klein

c/o Lutz Technik GmbH
Rümannstraße 2
D-80804 München
Telefon ++49 89 3063529-0
Telefax ++49 89 3083999
e-mail: mw4872@mucweb.de

CYBERSURFER

CYBERSURFER

CYBERSURFER –**The Evolution Between Man and Machine**

Keyboard, mouse, joystick, data gloves and voice control – the interface between man and machine is becoming more and more versatile. The search for new input devices always results from the same need: for the user to be able to control complex events as naturally and as easily as possible. Certainly, movement through virtual space pushes this development to the edge. Obstacles in the user's vicinity stand in the way of life-like control by means of walking movement. CYBERSURFER has a solution.

CYBERSURFER –**Control By Intuition**

CYBERSURFER controls movement easily and securely by weight-shifting. Without moving from his/her place, the user's entire body is actively included in the event. At the same time, CYBERSURFER overcomes the constrictions of similar concepts: it additionally understands turning and jumping movements. These must no longer be tediously keyed in by hand. The hands remain free for controlling manual activities. Only in this manner is a pure intuitive control possible.

**CYBERSURFER –****Intuitive Experience of Virtual Worlds**

CYBERSURFER

CYBERSURFER

Four Degrees of Freedom
CYBERSURFER understands weight-shifting, turning and jumping movements. These variables can be individually programmed for each application.

New Feeling of Mobility
The air suspension gives the impression of floating through space.

Analog Control
The wear-free optoelectronic system understands all movements according to direction and amount. Only in this way is precise control possible.



Individual Adaptation
Children as well as adults can smoothly adjust the suspension forces according to their wishes.

Hand Set
The hand set allows diverse control of manual activities with its two additional degrees of freedom and four buttons.

CYBERSURFER –**The Ideal Supplement for PCs and Game Consoles**

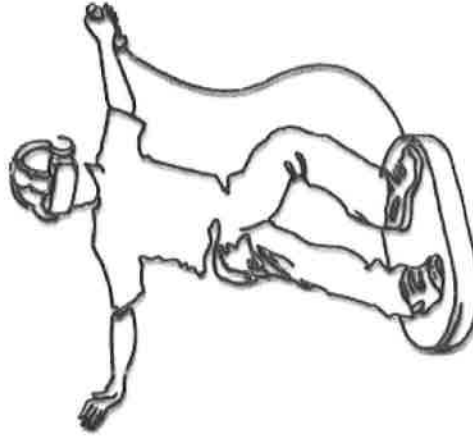
CYBERSURFER distinguishes itself from many other concepts: it is fully compatible to existing PC hardware and software. Its merits are visible even with a 17" monitor. CYBERSURFER would also be an interesting adaptation for game consoles. The experience is naturally perfected through a Head Mounted Display (HMD).

**CYBERSURFER –
An Efficient Concept**

CYBERSURFER was systematically designed for the consumer market. Because of its various possible adjustments, it is suitable for every age group. At the same time, it is tough and compact; the mechanics and sensory equipment are totally protected by the air cushion. The use of tested components for mechanics and sensory systems encourages an efficient series production. The sensory unit was fully tested in input devices such as SPACE MOUSE and CyberMan.

CYBERSURFER –**Stage of Development and Patents**

CYBERSURFER is a fully functioning prototype. The patent application was filed at the German Patent Office in March 1997. In the meantime, the International Preliminary Examination Proceedings (IPEP) have been concluded. According to the examination report, all claims were deemed novel and inventive by the competent office the European Patent Office.



PCTWELTORGANISATION FÜR GEISTIGES EIGENTUM
Internationales BüroINTERNATIONALE VERÖFFENTLICHUNG NACH DEM VERTRAG ÜBER DIE
INTERNATIONALE ZUSAMMENARBEIT AUF DEM GEBIET DES PATENTWESENS (PCT)

(51) Internationale Patentklassifikation G06K 11/00	28. SEP. 1998 A1 Frist: Patentanwälte	(11) Internationale Veröffentlichungsnummer: WO 98/40843 (43) Internationales Veröffentlichungsdatum: 17. September 1998 (17.09.98)
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(21) Internationales Aktenzeichen: PCT/EP98/01216

(22) Internationales Anmeldedatum: 4. März 1998 (04.03.98)

(30) Prioritätsdaten:
197 09 456.2 7. März 1997 (07.03.97) DE

(71)(72) Anmelder und Erfinder: KLEIN, Maximilian [DE/DE];
Rümannstrasse 59, D-80804 München (DE). LUTZ, Peter,
Jun. [DE/DE]; Rümannstrasse 2, D-80804 München (DE).

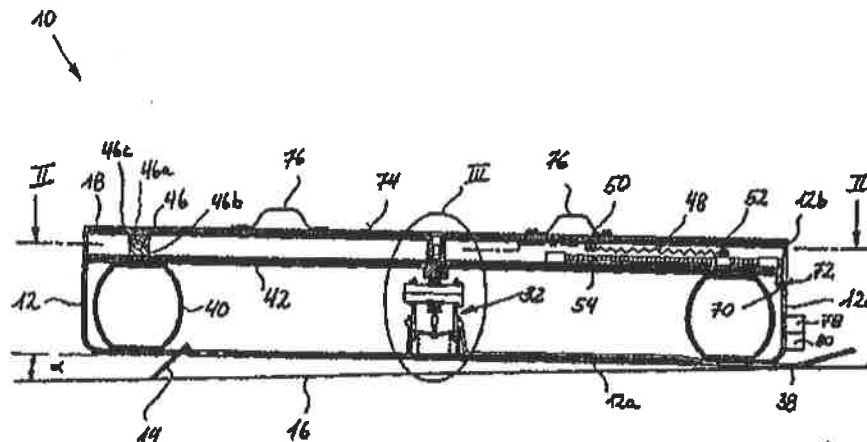
(74) Anwälte: WEICKMANN, H. usw.; Kopernikusstrasse 9,
D-81679 München (DE).

(81) Bestimmungsstaaten: AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, CA, CH, CN, CU, CZ, DE, DK, EE, ES, FI, GB, GE, GH, GM, GW, HU, ID, IL, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MD, MG, MK, MN, MW, MX, NO, NZ, PL, PT, RO, RU, SD, SE, SG, SI, SK, SL, TJ, TM, TR, TT, UA, UG, US, UZ, VN, YU, ZW, ARIPO Patent (GH, GM, KE, LS, MW, SD, SZ, UG, ZW), eurasisches Patent (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM), europäisches Patent (AT, BE, CH, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE), OAPI Patent (BF, BJ, CF, CG, CI, CM, GA, GN, ML, MR, NE, SN, TD, TG).

Veröffentlicht*Mit internationalem Recherchenbericht.**Vor Ablauf der für Änderungen der Ansprüche zugelassenen Frist. Veröffentlichung wird wiederholt falls Änderungen eintreffen.*

(54) Title: METHOD AND DEVICE FOR DETECTING SPECIFIC STATES OF MOVEMENT OF A USER

(54) Bezeichnung: VORRICHTUNG UND VERFAHREN ZUM ERFASSEN BESTIMMTER BEWEGUNGSZUSTÄNDE EINES BENUTZERS

**(57) Abstract**

The invention relates to a device (10) for generating input data into a computer, wherein the user stands, sits, kneels down, etc. on a support plate (18) pertaining to a support device (12). Said support plate (18) can be tilted and/or rotated and/or height adjusted on a base plate (12a). Movements of the support plate (18) in compliance with the amount of latitude enjoyed by the user are controlled by the latter by displacing body weight, exerting torque, jumping and the like. A sensing device (32) detects movements of the support plate (18) and generates corresponding sensor signals which are fed into a computer.

EXHIBIT "B"

Kim Zeldin

From: Sandy Hatcher <SANDYHA@noa.nintendo.com>
Sent: Thursday, May 20, 1999 3:03 PM
To: mw4872@mucweb.de
Subject: Re: CYBERSURFER

May 20, 1999

Re: Cybersurfer

Dear Mr. Lutz,

Thank you for your recent submission of your Cybersurfer proposal for Nintendo's licensing consideration. We have reviewed your product proposal and at the present time are not interested in licensing this product.

We appreciate your interest.

Best regards,
Sandy Hatcher
Licensing Manager

>>> Peter Lutz <mw4872@mucweb.de> 05/18/99 12:07PM >>>

Dear Mrs. Hatcher,

I am writing you in regards to my recent telephone conversation with Leef Thomson. As previously discussed with him, we have developed a new input device called CYBERSURFER. Attached please find an outline of the invention.

By preference, we are striving for an exclusive licensing agreement for CYBERSURFER. In addition we are offering our know-how to accompany the further development to come. However, we would also be available for another kind of agreement.

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Sincerely,

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